

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:08CR3078
)	
v.)	
)	
BRANDON LAMARR SMITH-)	TENTATIVE FINDINGS ON
CUSHINGBERRY,)	PRESENTENCE INVESTIGATION
)	REPORT
Defendants.)	
_____)	

Objections have been filed by the United States with respect to paragraph 10(d) of the Presentence Investigation Report. It is true that the Plea Agreement, filing 61, says at paragraph 8 d:

The Defendant agrees not to make any motion requesting a downward departure based on U.S.S.G. §§ 5H1.1-5H1.12 and/or 5K2.0-5K2.23. The Defendant agrees not to seek or suggest a sentence reduction via variance or deviation from the Guidelines.

The Presentence Investigation Report at page 4 in paragraph 10(d) omits from the recitation from U.S.S.G. §§ 5H1.1-5H1.8, 5H1.12, and 5K2.0. The objection is sustained.

The defendant has made no objection to the Presentence Investigation Report.

Except for the omissions mentioned above, I find that the Presentence Investigation Report is true and accurate. Objections may be made to these tentative findings at the time of the sentencing hearing, but no evidence shall be received.

Dated November 7, 2008.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge